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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/037,005	MATZ ET AL.
	Examiner	Art Unit
	MICHAEL VAN HANDEL	2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>30 June 2010</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-28 and 31-37</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-28, 31-37</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   This action is responsive to an Amendment filed 6/30/2010. Claims **1-28**, **31-37** are

pending. Claims **1-5, 8, 10-13, 15-17, 19, 23-28, 36, 37** are amended. Claims **29, 30, 38-50** are

canceled. The examiner hereby withdraws the rejection of claims **36, 37** under 35 USC 101 in

light of the amendment.

Response to Arguments

2.   Applicant's arguments regarding claims **1, 15**, and **36**, filed 6/30/2010, have been fully

considered, but they are not persuasive.

        Referring to claim **36**, the applicant argues that support for the phrase "applying priority

assignments to the content metadata" is supported by paragraphs [0074U] – [0074W], which

were incorporated by reference and added by an amendment submitted June 29, 2009. The

examiner respectfully disagrees. As noted in the Office Action mailed 7/29/2009, and further in

the Office Action mailed 12/02/2009, this amendment to the Specification was not entered.

Section (c) of The Incorporation by Reference section of MPEP 608.01(p) states that "essential

material" may be incorporated by reference. "Essential material" is material that is necessary to

provide a written description of the claimed invention, and of the manner and process of making

and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art

to which it pertains, or with which it is most nearly connected, to make and use the same, and set

forth the best mode contemplated by the inventor of carrying out the invention as required by the

first paragraph of 35 U.S.C. 112. In this case, the subject matter of the amendment to the

specification does appear to be material to the claimed invention; however, the amendment to the

specification does not provide a written description of the claimed invention, and of the manner

and process of making and using it, in such full, clear, concise, and exact terms as to enable any

person skilled in the art to which it pertains, or with which it is most nearly connected, to make

and use the same. That is, neither the instant application, nor the application incorporated by

reference teaches the entirety of the claimed invention in full, clear, concise, and exact terms so

as to enable any person skilled in the art to which it pertains, or with which it is most nearly

connected, to make and use the same. The instant application is directed towards collecting

subscriber content-choice data from a plurality of cable system operators and storing the data in a

clearinghouse. The subscriber content-choice data is indicative of the content viewed by

subscribers. The section of 09/496,825 cited by Applicant as supporting the limitation is directed

towards a parsing and merge process carried out on a staging server and is not directed towards a

process carried out at a clearinghouse. As such, neither application discloses the entirety of the

invention as currently recited in the claims, as required by the written description requirement of

USC 112, first paragraph.

      With respect to the "collecting subscriber content-choice data from a plurality of service

providers as data describing event timelines that merges content metadata with subscriber events

over a period of time," the examiner again notes that the cited portions of 09/496,825 do not

disclose the entirety of the invention as currently recited in the claims. The section cited by

Applicant is directed towards a parsing and merge process carried out on staging server and is

not directed towards a process carried out a clearinghouse. Nevertheless, the examiner finds

support for this limitation as the data is "received as event timelines that merges content

metadata with subscriber events over a period of time." The examiner finds that Figure 2 of the

instant application supports this limitation insofar as categories of programming viewed over

time periods is received by the clearinghouse.

Regarding claims **1, 15,** and **36,** the applicant argues that Vinson et al. does not teach

collecting subscriber content-choice data from a plurality of service providers as data describing

event timelines that merges content metadata with subscriber events over a period of time. The

examiner respectfully disagrees. Vinson et al. discloses recording set-top box events and

periodically transmitting the events data to a central collection point where data analysis may

begin (p. 3, paragraph 27). As a user interacts with a STB, attributes of content presented to the

user and demographics associated with the user's behavior are associated with the STB (p. 21,

paragraph 308). This information is used to create time-based demographic and interest

association tables for storage at the data center (p. 21, paragraph 308), such as those shown in

Figs. 22(a)-22(l). Vinson et al. further discloses that the set-top box events are first transmitted

to a head-end bunker and then to a data center (p. 7, paragraphs 94-100). Since attributes of

viewed content and STB events data are stored in time-based data tables and transmitted to a data

center, the examiner maintains that Vinson et al. teaches collecting subscriber content-choice

data from a plurality of service providers as data describing event timelines that merges content

metadata with subscriber events over a period of time, as currently claimed.

Further regarding claims **1, 15,** and **36,** the applicant argues that Vinson et al. does not

teach classifying the data describing the event timelines according to viewing time for genres of

programming. The examiner respectfully disagrees. Vinson et al. discloses that, as viewers

interact with the STBs, attributes of content presented to the user over time are stored in tables,

such as those in Figs. 22(a)-22(l)(p. 6, paragraph 83 & p. 21, paragraphs 308, 313). Vinson et al.

further discloses that, once the data is stored at the data center, an operator can search for and

find statistical patterns, such as the fact that a particular STB watches a large number of home-

improvement shows (p. 22, paragraph 314) or watches news programming at a particular time of

day (p. 19, paragraph 278). Vinson et al. still further discloses that the operator can display the

total viewers that received news programming at a particular time and during a particular day of

the week (Fig. 35). Since the data retrieved from the STBs indicates genres of programming

viewed over time, and the operator is able to access this data for display, the examiner maintains

that Vinson et al. teaches classifying the data describing the event timelines according to viewing

time for genres of programming, as currently claimed.

Claim Objections

3.   Claims **3, 4, 6, 7** are objected to because of the following informalities:

        Referring to claim **3**, the examiner notes that the phrase "the plurality of subscribers'

content-choice data" lacks antecedent basis. The examiner fails to find a previous recitation of a

plurality of subscribers' content-choice data in the claims. The examiner recommends that the

phrase be changed to "a plurality of subscribers' content-choice data," and interprets the claim in

the Office Action below as though the recommended changes have been made.

        Claim **4** is objected to as being dependent on claim 3.

        Referring to claims **6** and **7**, the examiner notes that the phrase "the subscriber" lacks

antecedent basis. Claim 5, from which they depend, recites "each subscriber," but not "a

subscriber." The examiner recommends that the phrase be changed to "a subscriber" and

interprets the claims in the Office Action below as though the recommended changes have been

made.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making
> and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
> pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
> contemplated by the inventor of carrying out his invention.

5.   Claim **36, 37** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with

the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed

invention.

Referring to claim **36**, the examiner fails to find support for the phrase "applying priority

assignments to the content metadata such that metadata from an electronic programming guide

has a lower priority than national ad metadata and local ad insert metadata has a higher priority

than national ad metadata" in Applicant's specification. Applicant states that support for this

feature may be found in column 9, line 56 through column 20, line 23 of US Application

09/496,825 to Grauch et al., which is incorporated by reference. The examiner notes that, while

Applicant may incorporate a co-pending application by reference, the incorporation by reference

must be done with particularity so as to illustrate to one of ordinary skill in the art that Applicant

had possession of the claimed invention at the time that the invention was made.

    Claim **37** is rejected as being dependent on claim 36.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

7.   Claims **1-8, 10-22, 24-28, 31-35** are rejected under 35 U.S.C. 102(e) as being anticipated

by Vinson et al.

    Referring to claim **1**, Vinson et al. discloses a method for receiving subscriber content-

choice information, comprising:

-    collecting subscriber content-choice data from a plurality of service providers as data

     describing event timelines that merges content metadata with subscriber events over a

     period of time (user television viewing behavior is collected at set-top boxes and

     forwarded to a head-end bunker. Database tables are created indicating television

     viewing data over time)(p. 3, paragraph 27; p. 7, paragraphs 94-100; p. 18,

     paragraphs 272, 273; p. 21, paragraphs 308-310, 313; & Figs. 22(A)-22(I));

-    storing the data describing the event timelines in a clearinghouse database (data is

     uploaded from the head-end bunkers to a data center that serves as a central

repository for all data gathered from a plurality of head-ends)(p. 7, paragraphs 101-
104 & Fig. 11);

- classifying the data describing the event timelines according to viewing time for
genres of programming (as viewers interact with their STB's, attributes of content
presented to the user over time are stored in tables, such as those in Figs. 22(a)-
22(l)(p. 6, paragraph 83 & p. 21, paragraphs 308, 313);

- receiving a request for the subscriber content-choice data associated with a genre (can
find user interests, such as home-improvement shows or news programs)(p. 7, 8,
paragraphs 104-106; p. 19, paragraph 178; & p. 22, paragraphs 314, 319, 320); and

- retrieving the data describing the event timelines associated with the genre (interface
of Figure 35 can show total viewers by time and day of news programs)(p. 27,
paragraph 358 & Fig. 35).

Referring to claim **2**, Vinson et al. discloses the method of claim 1, further comprising
assigning a sub-classification to the data describing the event timelines for a lesser percentage of
historical viewing time (each news program is further refined into news, weather, and sports
segments and total viewer data is shown. Viewership of a particular segment of the news
program will be less than viewership of any part of the program)(Fig. 35).

Referring to claim **3**, Vinson et al. discloses the method of claim 1, wherein a plurality of
subscribers' content-choice data comprises data relating to a television program received by a
subscriber (Fig. 35).

Referring to claim **4**, Vinson et al. discloses the method of claim 3, wherein the plurality of subscribers' content-choice data comprises at least one of date information and time information related to the television program (p. 6, paragraph 83).

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claim **5**, Vinson et al. discloses the method of claim 1, wherein collecting the subscriber content-choice data further comprises collecting data relating to each subscriber (p. 6, paragraph 84).

Referring to claim **6**, Vinson et al. discloses the method of claim 5, wherein the data relating to a subscriber comprises a subscriber identifier (p. 21, paragraphs 304, 305).

Referring to claim **7**, Vinson et al. discloses the method of claim 5, wherein the data relating to the subscriber comprises demographic data (p. 21, paragraph 306).

Referring to claim **8**, Vinson et al. discloses the method of claim 1, wherein collecting the subscriber content-choice data further comprises collecting data relating to a subscriber system (p. 7, paragraph 97).

Referring to claim **10**, Vinson et al. discloses the method of claim 1, wherein collecting the subscriber content-choice data comprises collecting data relating to an advertisement received by a subscriber (p. 21, paragraph 306).

Referring to claim **11**, Vinson et al. discloses the method of claim 1, wherein collecting the subscriber content-choice data comprises receiving data relating to a viewing pattern of a subscriber (p. 12, paragraph 171).

Referring to claim **12**, Vinson et al. discloses the method of claim 1, wherein receiving the request for the subscriber content-choice data comprises receiving an electronic request form that is standardized for the plurality of service providers (p. 6, paragraphs 89-91; p. 8, paragraph 105; & Figs. 26-35).

Referring to claim **13**, Vinson et al. discloses the method of claim 1, further comprising periodically requesting the subscriber content-choice data from the plurality of service providers for storage in the clearinghouse database (p. 7, paragraphs 99-102).

Referring to claim **14**, Vinson et al. discloses the method of claim 1, further comprising sorting the collected subscriber content-choice data (p. 8, paragraphs 112, 113).

Referring to claim **15**, Vinson et al. discloses a system for receiving and distributing content-choice information, comprising:

- a processor executing code stored in memory that causes the processor (data center)(Fig. 11) to:

    o collect subscriber content-choice data from a plurality of service providers as data describing event timelines that merges content metadata with subscriber events over a period of time (user television viewing behavior is collected at set-top boxes and forwarded to a head-end bunker. Database tables are created indicating television viewing data over time)(p. 3, paragraph 27; p. 7, paragraphs 94-100; p. 18, paragraphs 272, 273; p. 21, paragraphs 308-310, 313; & Figs. 22(A)-22(l));

    o store the data describing the event timelines in a clearinghouse database (data is uploaded from the head-end bunkers to a data center that serves as a central

repository for all data gathered from a plurality of head-ends)(p. 7, paragraphs

101-104 & Fig. 11);

- o classify the data describing the event timelines according to viewing time for

genres of programming (as viewers interact with their STB's, attributes of

content presented to the user over time are stored in tables, such as those in

Figs. 22(a)-22(l)(p. 6, paragraph 83 & p. 21, paragraphs 308, 313);

- o receive a request for a number of viewers associated with a genre (can find

user interests, such as home-improvement shows or news programs)(p. 7, 8,

paragraphs 104-106; p. 19, paragraph 178; & p. 22, paragraphs 314, 319,

320); and

- o retrieving the data describing the event timelines classified in the genre

(interface of Figure 35 can show total viewers by time and day of news

programs)(p. 27, paragraph 358 & Fig. 35).

Referring to claim **16**, Vinson et al. discloses the system of claim 15, wherein the code

further causes the processor to list a primary classification and a sub-classification (each news

program is further refined into news, weather, and sports segments and total viewer data is

shown. Viewership of a particular segment of the news program will be less than viewership of

any part of the program)(Fig. 35).

Referring to claim **17**, Vinson et al. discloses the system of claim 15, wherein the code

further causes the processor to receive data relating to television programs received by a

subscriber (p. 6, paragraphs 82, 83).

Referring to claim **18**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to receive at least one of date information and time information related to a television program (p. 6, paragraph 83).

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claim **19**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to receive data relating to a subscriber (p. 6, paragraph 84).

Referring to claim **20**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to receive a subscriber identifier (p. 21, paragraphs 304, 305).

Referring to claim **21**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to receive demographic data (p. 21, paragraph 306).

Referring to claim **22**, Vinson eta l. discloses the system of claim 15, wherein the code further causes the processor to receive data relating to a subscriber system (p. 7, paragraph 97).

Referring to claim **24**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to receive data relating to an advertisement received by a subscriber (p. 21, paragraph 306).

Referring to claim **25**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to receive data relating to the viewing patterns of a subscriber (p. 12, paragraph 171).

Referring to claim **26**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to receive an electronic request form that is standardized for the plurality of service providers (p. 6, paragraphs 89-91; p. 8, paragraph 105; & Figs. 26-35).

Referring to claim **27**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to periodically request that the plurality of service providers send their respective subscriber content-choice data for storage in the clearinghouse database (p. 7, paragraphs 99-102).

Referring to claim **28**, Vinson eta l. discloses the system of claim 15, wherein the code further causes the processor to classify the data describing the event timelines according to a sub-classification (Fig. 35).

Referring to claim **31**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to select the subscriber content-choice data based on geographic location (p. 6, paragraph 90).

Referring to claim **32**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to select the subscriber content-choice data based on subscriber classification data (Fig. 35).

Referring to claim **33**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to select the subscriber content-choice data based on data relating to television programs viewed by a plurality of subscribers (p. 6, paragraph 90).

Referring to claim **34**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to select the subscriber content-choice data based on data relating to advertisements viewed by a plurality of subscribers (p. 21, paragraph 304).

Referring to claim **35**, Vinson et al. discloses the system of claim 15, wherein the code further causes the processor to select the subscriber content-choice data based on at least one of a viewing date and a geographic location (p. 22, paragraph 320).

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any

reference containing any of the subsequent corresponding elements.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

9.   Claims **9, 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson et al.

in view of Eldering et al.

      Referring to claims **9** and **23**, Vinson et al. discloses the method/system of claims 1 and

15, respectively. Vinson et al. further discloses associating monitored user data with data

describing service provider type, name, and geographical location (p. 6, paragraph 90 & p. 22,

paragraphs 319, 320). Vinson et al. further discloses combining the monitored user data of

multiple users and providing subscribers with access to the monitored data through a web-based

system (p. 6, paragraph 89 & Figs. 26-35). Vinson et al. does not specifically disclose that

collecting the subscriber content-choice data comprises receiving an eXtensible Markup

Language file having linear data describing the type of service provider, the name of the service

provider, and a location associated with the service provider. Eldering et al. discloses

monitoring subscriber television viewing interaction and generating viewing characteristics

therefrom. At least one type of subscriber profile from a subset of subscriber characteristics is

generated. Groups are formed by correlating at least one type of subscriber profile. Groups may

correlate elements of a content delivery system, such as head-ends (see Abstract). Eldering et al.

further discloses that monitored viewing characteristics include network preference, genre

preference, and geographical location (p. 2, paragraph 25 & p. 5, paragraph 84). Eldering et al.

still further discloses aggregating portions of the monitored information to create a subscriber

profile. The profile is stored in an XML format (p. 11, paragraph 134). The examiner notes that

XML inherently stores data in a linear, line-by-line textual format. It would have been obvious

to one of ordinary skill in the art at the time that the invention was made to store the monitored

user data of Vinson et al. in an XML format, such as that taught by Eldering et al. in order to use

a standardized format to ensure that multiple files can be combined and manipulated (Eldering et

al. p. 11, paragraph 134).

10.   Claim **36** is rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson et al. in

view of Grauch et al.

        Referring to claim **36**, Vinson et al. discloses a non-transitory computer-readable storage

medium storing computer program code for performing a method, the method comprising:

-       collecting subscriber content-choice data from a plurality of service providers as data

        describing event timelines that merges content metadata with subscriber events over a

        period of time (user television viewing behavior is collected at set-top boxes and

        forwarded to a head-end bunker. Database tables are created indicating television

        viewing data over time)(p. 3, paragraph 27; p. 7, paragraphs 94-100; p. 18,

        paragraphs 272, 273; p. 21, paragraphs 308-310, 313; & Figs. 22(A)-22(l));

- storing the data describing the event timelines in a clearinghouse database (data is uploaded from the head-end bunkers to a data center that serves as a central repository for all data gathered from a plurality of head-ends)(p. 7, paragraphs 101-104 & Fig. 11);

- classifying the data describing the event timelines according to geographical location and viewing time of different genres of programming (as viewers interact with their STB's, attributes of content (such as genre) presented to the user over time are stored in tables, such as those in Figs. 22(a)-22(l)(p. 6, paragraph 83 & p. 21, paragraphs 308, 313);

- receiving a request for a number of viewers having a particular classification in a location (can find user interests, such as home-improvement shows or news programs)(p. 7, 8, paragraphs 104-106; p. 19, paragraph 178; & p. 22, paragraphs 314, 319, 320); and

- retrieving the data describing the event timelines associated with the location and the particular classification (interface of Figure 35 can show total viewers by time and day of news programs)(p. 27, paragraph 358 & Fig. 35).

Vinson et al. does not specifically disclose applying priority assignments to the content metadata such that metadata from an electronic programming guide has a lower priority than national ad metadata and local ad insert metadata has a higher priority than the national ad metadata. Grauch et al. discloses applying priority assignments to content metadata, such that metadata from an electronic programming guide has a lower priority than national ad metadata and local ad insert metadata has a higher priority than the national ad metadata (p. 31, lines 7-30 & p. 32,

lines 1-6). It would have been obvious to one of ordinary skill in the art at the time that the

invention was made to modify the monitoring system of Vinson et al. to include applying priority

assignments to the content metadata, such that metadata from an electronic programming guide

has a lower priority than national ad metadata and local ad insert metadata has a higher priority

than the national ad metadata, such as that taught by Grauch et al. in order to better match raw

information on channels viewed with programming information (Grauch et al. p. 3, lines 14-15).

11.   Claim **37** is rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson et al. in

view of Grauch et al., and further in view of Eldering et al.

        Referring to claim **37**, the combination of Vinson et al. and Grauch et al. teaches the non-

transitory computer-readable storage medium of claim 36. The combination of Vinson et al. and

Grauch et al. does not specifically teach receiving the subscriber content-choice data as

eXtensible Markup Language files. Eldering et al. discloses monitoring subscriber television

viewing interaction and generating viewing characteristics therefrom. Eldering et al. further

discloses aggregating portions of the monitored information to create a subscriber profile. The

profile is stored in XML format (p. 11, paragraph 134). It would have been obvious to one of

ordinary skill in the art at the time that the invention was made to store the monitored user data

of Vinson et al. in an XML format, such as that taught by Eldering et al. in order to use a

standardized format to ensure that multiple data files can be combined and manipulated

(Eldering et al. p. 11, paragraph 134).

Conclusion

     THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

     A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

     Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

     If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Van Handel/
Primary Examiner, Art Unit 2424

9/13/2010